

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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Vinita Rathod,

Case No.: 1:23-cv-03276

*Plaintiff,*

*-against-*

Wellington Physical Therapy and Acupuncture PLLC,  
and Nikki Yu,

*Defendants.*  
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**NOTICE OF MOTION**

**PLEASE TAKE NOTICE** that upon the annexed Memorandum of Law dated October 6, 2023, together with the supporting declaration of Jason Mizrahi (the “Mizrahi Decl.”) and the exhibits annexed thereto, Defendants Wellington Physical Therapy and Acupuncture PLLC, and Nikki Yu (together, the “Defendants”), by and through their attorney Levin-Epstein & Associates, P.C. will move this Court, the Honorable District Judge J. Paul Oetken presiding, for an order granting Defendants’ motion to dismiss the Complaint, filed on April 19, 2023 [Dckt. No. 1] (the “Complaint” or the “*Compl.*”) by Plaintiff Vinita Rathod (the “Plaintiff”), pursuant to Federal Rule of Civil Procedure (“Fed.R.Civ.P.”) 12(b)(1), 12(b)(6), and 12(h)(3), and for such other and further relief as the Court deems just and proper.

**PLEASE TAKE FURTHER NOTICE** that answering papers, if any, must be served on or before October 20, 2023, and Defendants’ reply must be served on or before October 27, 2023.

Dated: New York, New York  
October 6, 2023

Respectfully Submitted,

LEVIN EPSTEIN & ASSOCIATES, P.C.

/s/ Jason Mizrahi

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*Attorneys for Defendants*

Cc: All parties via ECF